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Paper 40  
Filed: 19 November 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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RONALD S. COK, ANDREW D. ARNOLD  
and DUSTIN WINTERS  
Junior Party  
(Patent 6,182,637),

v.

TAKESHI NISHI and ISHIMARU SHIBATA  
Senior Party  
(Application 10/601,793).

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Patent Interference No. 105,668 (SCM)  
(Technology Center 2800)

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Before SALLY GARDNER LANE, SALLY C. MEDLEY and  
MICHAEL P. TIERNEY, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

1           On 16 November 2009, Nishi filed “NISHI COMMUNICATION”  
2 (Paper 39) in which Nishi represents that it does not oppose Cok’s assertion  
3 that Nishi lacks written description support for the claim term “light  
4 absorbing”. (Paper 39 at 2:2-5). Nishi’s representation is construed as a  
5 request for entry of adverse judgment. 37 C.F.R. § 41.127(b)(3). The  
6 request is GRANTED.

7           Accordingly, it is  
8                   ORDERED that judgment as to the subject matter of Count 1  
9 (Paper 1 at 4) is entered against Nishi;

10           FURTHER ORDERED that claims 79-85 of Nishi’s involved  
11 application are FINALLY REFUSED, 35 U.S.C. § 135(a);

12           FURTHER ORDERED that the parties shall note the  
13 requirements of 35 U.S.C. § 135(c) and Bd. R. 205; and

14           FURTHER ORDERED that a copy of this judgment be  
15 entered in the administrative records of the involved Nishi application and  
16 Cok patent.

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